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Attorneys for Plaintiff
NATIONAL ABORTION FEDERATION (NAF)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NATIONAL ABORTION FEDERATION (NAF),

Case No. 3:15-cv-3522

Plaintiff,

Judge:

V.

THE CENTER FOR MEDICAL PROGRESS,
BIOMAX PROCUREMENT SERVICES LLC,
DAVID DALEIDEN (aka "ROBERT SARKIS"),
and TROY NEWMAN,

**DECLARATION OF DEREK F.
FORAN IN SUPPORT OF
NATIONAL ABORTION
FEDERATION (NAF)'S MOTION
FOR A TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Defendants.

1 I, DEREK F. FORAN, declare as follows:

2 1. I am a partner with the law firm of Morrison & Foerster LLP, attorneys of record
3 in this action for Plaintiff National Abortion Federation (NAF). I submit this declaration in
4 support of Plaintiff National Abortion Federation (NAF)'s concurrently filed *Ex Parte* Motion for
5 a Temporary Restraining Order and for other relief. Except where expressly stated on
6 information and belief, I have personal knowledge of the matters set forth below, and if called as
7 a witness I could and would testify competently as follows:

8 **Notice of Application of Ex Parte Temporary Restraining Order**

9 2. On July 30, 2015, at about 10:02 p.m., I caused a letter to be sent via email to
10 Catherine Short (lldfojai@earthlink.net), who is the attorney identified as the registered agent for
11 service of process for The Center for Medical Progress (CMP) on the California Secretary of
12 State website. I caused the same letter to be sent via the same email to Paul N. Jonna, Esq.
13 (pjonna@ConscienceDefense.org), who I understand made a special appearance on behalf of
14 CMP in response to an application for a temporary restraining order filed in the matter titled
15 *StemExpress, LLC et al. versus The Center for Medical Progress et al.* (Jul. 28, 2015), Case No.
16 BC589145, in the Superior Court of the State of California, County of Los Angeles, Central
17 District. I caused the same letter to be sent via the same email to email addresses associated with
18 Biomax Procurement Services LLC (info@biomaxps.com), David Daleiden
19 (david@centerformedicalprogress.org), and Troy Newman (info.operationrescue@gmail.com).
20 Attached as Exhibit 1 hereto is a true and correct copy of letter that I caused to be sent via email
21 to these persons.

22 3. The letter notified CMP, Biomax, Daleiden and Newman ("Defendants") that NAF
23 would be filing an application on July 31, 2015, in the United States District Court for the
24 Northern District of California, San Francisco, for an *ex parte* temporary restraining order, order
25 to show cause, preliminary injunction, and expedited discovery. The letter also stated that NAF
26 would be seeking a hearing on its application for that same day, and asked whether the
27 Defendants intended to appear at the hearing and/or oppose NAF's application.

28 4. As of the time of filing, Defendants have not responded to the letter.

1 5. I asked an associate working under my direction, Christopher Robinson, to try to
2 make contact with the Defendants by telephone on the morning of July 31, 2015, and prepare a
3 declaration to be filed separately in support of this motion describing his activities.

4 **Exhibits**

5 6. Attached as Exhibit 2 hereto is a true and correct copy of a table from the *National*
6 *Abortion Federation* entitled “NAF Violence and Disruption Statistics” covering 1977-2014.
7 This document was obtained by downloading it from the NAF website, at: <http://prochoice.org/education-and-advocacy/violence/violence-statistics-and-history/>

8 7. Attached as Exhibit 3 hereto is a true and correct copy of an article from the *New*
9 *York Times* entitled “Abortion Doctor Shot to Death in Kansas Church” by Joe Stumpe and
10 Monica Davey, dated May 31, 2009. This document was obtained by downloading it from *The*
11 *New York Times*’ website, at: <http://www.nytimes.com/2009/06/01/us/01tiller.html?pagewanted=all>.

12 8. Attached as Exhibit 4 hereto is a true and correct copy of an article from the
13 *Guardian* entitled “For years anti-abortionists tried to stop Doctor Tiller. Finally a bullet did” by
14 Ed Pilkington, dated June 1, 2009. This document was obtained by downloading it from the
15 *Guardian* website, at: <http://www.theguardian.com/world/2009/jun/01/us-doctor-tiller-killing-abortions>.

16 9. Attached as Exhibit 5 hereto is (on information and belief) a true and correct copy
17 of Biomax’s “NAF Application and Agreement for Exhibit Space,” “Exhibit Rules and
18 Regulations”, and NAF “Annual Meeting Registration Form” for the NAF Annual meeting held
19 in San Francisco, CA, between April 5-8, 2014, with all personal and credit card information
20 redacted. The Application and Agreement for Exhibit Space lists “Brianna Allen” (Procurement
21 Assistant), “Susan Tennenbaum” (CEO), and “Robert Sarkis” (VP of Operations). The NAF
22 “Exhibit Rules and Regulations” is signed by “Susan Tennenbaum” (CEO) representing Biomax
23 Procurement Services, dated February 5, 2014. The Annual Meeting Registration Form is signed
24 by Phil Cronin. The names and contact information of NAF staff have been redacted for their
25 protection.

1 10. Attached as Exhibit 6 hereto are (on information and belief) true and correct copies
2 of Confidentiality Agreements for NAF Annual Meeting signed by “Brianna Allen” (representing
3 Biomax), “Susan Tennebaum” (CEO of Biomax), and “Robert Sarkis” (Procurement Manager of
4 Biomax/VP of Operations) dated April 5, 2014. The signature is dated April 5, 2013; the
5 confidentiality agreement states that it is a 2014 document on its face.

6 11. Attached as Exhibit 7 hereto is a true and correct copy of the Biomax Company
7 page as it appeared on July 8, 2015. This document was obtained by downloading it from
8 [http://webcache.googleusercontent.com/search?q=cache:SxAA3Tk6xS0J:www.biomaxps.com/co](http://webcache.googleusercontent.com/search?q=cache:SxAA3Tk6xS0J:www.biomaxps.com/company/+&cd=2&hl=en&ct=clnk&gl=us)
9 mpany/+&cd=2&hl=en&ct=clnk&gl=us.

10 12. Attached as Exhibit 8 hereto is a true and correct copy of the Biomax website
11 accessed July 30, 2015. This document was obtained by downloading it from
12 www.biomaxps.com.

13 13. Attached as Exhibit 9 hereto is a true and correct copy of a transcript from a July
14 15, 2015, *The O'Reilly Factor* television program. This transcript was downloaded from Lexis
15 Nexis.

16 14. Attached as Exhibit 10 hereto is (on information and belief) a true and correct
17 copy of an email exchange that took place between December 2013 and March 2014 between
18 Jennifer A. Hart (Director of Training and Education for NAF), Nichelle Davis, and “Brianna
19 Allen.” “Brianna Allen” is a representative of Biomax and copies “Susan Tennenbaum” and
20 “Robert Sarkis.” The names and contact information of NAF staff have been redacted for their
21 protection.

22 15. Attached as Exhibit 11 hereto is (on information and belief) a true and correct
23 copy of an email exchange of an email exchange that took place in 2015 between “Brianna Allen”
24 and Nichelle Davis. “Brianna Allen” is a representative of Biomax and copies “Susan
25 Tennenbaum” and “Robert Sarkis.” Biomax’s “NAF Application and Agreement for Exhibit
26 Space” with a deadline of February 23, 2015, with Biomax representatives listed as “Susan
27 Tennenbaum” (CEO), “Robert Sarkis” (Procurement Manager), “Adrian Lopez” (Procurement
28 Technician). Also attached are (on information and belief) true and correct copies of the NAF

1 “Exhibit Rules and Regulations” signed by “Susan Tennenbaum” (CEO) of Biomax and dated
2 March 25, 2015”, and the NAF Annual Meeting Registration Form signed by “Rebecca Wagner”
3 representing Biomax, with all personal and credit card information redacted. The names and
4 contact information of NAF staff have been redacted for their protection.

5 16. Attached as Exhibit 12 hereto is (on information and belief) a true and correct
6 copy of Biomax’s “NAF Application and Agreement for Exhibit Space” with a deadline of
7 February 23, 2015, with Biomax representatives listed as “Susan Tennenbaum” (CEO), “Robert
8 Sarkis” (Procurement Manager), “Adrian Lopez” (Procurement Technician). Also attached are
9 (on information and belief) true and correct copies of the NAF “Exhibit Rules and Regulations”
10 signed by “Susan Tennenbaum” (CEO) of Biomax and dated March 25, 2015”, and the NAF
11 Annual Meeting Registration Form signed by “Rebecca Wagner” representing Biomax, with all
12 personal and credit card information redacted. The names and contact information of NAF staff
13 have been redacted for their protection.

14 17. On information and belief, attached as Exhibit 13 is a photocopy of a driver’s
15 license purporting to be for “Robert Daoud Sarkis.” Also on information and belief, Exhibit 13
16 also contains a photocopy of an identification purportedly belonging to “Susan Sarah
17 Tennenbaum.”

18 18. On information and belief, Exhibit 14 contains photos taken by NAF staff during
19 an annual NAF conference.

20 19. Attached as Exhibit 15 hereto are (on information and belief) true and correct
21 copies of documents that purport to be the Biomax business cards of “Susan Tennenbaum”
22 (Founder and CEO), “Robert Daoud Sarkis” (Procurement Manager/VP Operations), and
23 “Brianna Allen” (Procurement Assistant).

24 20. Attached as Exhibit 16 hereto is (on information and belief) a true and correct
25 copy of a Confidentiality Agreement for an NAF Annual Meeting signed by “Adrian Lopez”
26 (Biomax Procurement Tech), dated April 18, 2015.

27 21. Attached as Exhibit 17 hereto is a true and correct copy of an article from the *New*
28 *York Times* entitled “With Planned Parenthood videos, Activist Ignites Abortion Issue” by Jackie

1 Clames, dated July 21, 2015. This document was obtained by downloading it from the *New York*
2 *Times*' website, at: http://www.nytimes.com/2015/07/22/us/with-planned-parenthood-videos-activist-ignites-abortion-issue.html?_r=0.

4 22. Attached as Exhibit 18 hereto is a true and correct copy of a transcript of a video
5 released by the Center for Medical Progress on July 14, 2015. This document was obtained by
6 downloading it from the Center for Medical Progress website, at: http://www.centerformedicalprogress.org/wp-content/uploads/2015/05/PPFAtranscript072514_final.pdf.

8 23. Attached as Exhibit 19 hereto is a true and correct copy of an article from *The Last Refuge* entitled "Yet Another Disturbing 'For Profit' Planned Parenthood Baby Harvest Video Surfaces" by "sundance" dated July 21, 2015. This document was obtained by downloading it from *TheConservativeTreeHouse* website, at: <http://theconservativetreehouse.com/2015/07/21/yet-another-disturbing-for-profit-planned-parenthood-baby-harvest-video-surfaces/>.

13 24. Attached as Exhibit 20 hereto is a true and correct copy of an article from *LifeNews.com* entitled "Planned Parenthood Doc Deletes Twitter Account After Exposed Selling Aborted Baby Body Parts" by Steven Ertelt, dated July 14, 2015. This document was obtained by downloading it from LifeNews.com, at: <http://www.lifenews.com/2015/07/14/planned-parenthood-doc-deletes-twitter-account-after-exposed-selling-aborted-baby-body-parts/>.

18 25. Attached as Exhibit 21 hereto is a true and correct copy of an article from *Heavy* entitled "Dr. Deborah Nucatola: 5 Fast Facts You need to Know" by Paul Farrell, dated July 14, 2015. This document was obtained by downloading it from Heavy.com, at: <http://heavy.com/news/2015/07/deborah-nucatola-planned-parenthood-doctor-center-for-medical-progress/>.

22 26. Attached as Exhibit 22 hereto is a true and correct copy of a transcript of a video released by the Center for Medical Progress on July 21, 2015. This document was obtained by downloading it from the Center for Medical Progress website, at: http://www.centerformedicalprogress.org/wp-content/uploads/2015/05/PPFA020615_transcript.pdf.

26 27. Attached as Exhibit 23 hereto is a true and correct copy of a Temporary Restraining Order, Order To Show Cause Re: Preliminary Injunction, and Expedited Discovery Order granted July 28, 2015 by Hon. Joanne O'Donnell of the Los Angeles County Superior

1 Court in Case No. BC589145, *StemExpress, LLC, and Catherine Dyer v. The Center For Medical*
2 *Progress, Biomax Procurement Services, LLC, David Daleiden (aka "Robert Sarkis"), Doe 1*
3 *(aka "Susan Tennenbaum"), and Does 2 through 100, inclusive.*

4 28. Attached as Exhibit 24 hereto is a true and correct copy of an article from
5 *LifeNews.com* entitled “A Dozen Very ‘Shocking’ Videos of Planned Parenthood Selling Aborted
6 Babies Still to Come” by Steven Ertelt, dated July 24, 2015. This document was obtained by
7 downloading it from LifeNews.com, at: <http://www.lifenews.com/2015/07/24/a-dozen-very-shocking-videos-of-planned-parenthood-selling-aborted-babies-still-to-come/>.

9 29. Attached as Exhibit 25 hereto is a true and correct copy of a transcript from a July
10 22, 2015 *Hannity* television program. This transcript was downloaded from Lexis Nexis.

11 30. Attached as Exhibit 26 hereto is a true and correct copy of a press release from
12 The Center for Medical Progress entitled “Human Capital – Episode 1: Planned Parenthood’s
13 Black Market in Baby Parts” dated July 28, 2015. This document was obtained by downloading
14 it from The Center for Medical Progress’ website, at: <http://www.centerformedicalprogress.org/2015/07/human-capital-episode-1/>.

16 31. Attached as Exhibit 27 hereto is a true and correct copy of a press release from the
17 Center for Medical Progress entitled “Planned Parenthood VP says Fetuses May Come Out Intact,
18 Agrees Payments Specific to the Specimen” dated July 30, 2015. This document was obtained by
19 downloading it from The Center for Medical Progress website, at: <http://www.centerformedicalprogress.org/2015/07/planned-parenthood-vp-says-fetuses-may-come-out-intact-agrees-payments-specific-to-the-specimen/>.

22 32. Attached as Exhibit 28 hereto is a true and correct copy of a press release from
23 The Center for Medical Progress entitled “CMP Statement on Planned Parenthood’s Refusal to
24 Produce Senior Director of Medical Services for House Committee” dated July 20, 2015. This
25 document was obtained by downloading it from The Center for Medical Progress’ website, at:
26 <http://www.centerformedicalprogress.org/2015/07/cmp-statement-on-planned-parenthoods-refusal-to-produce-senior-director-of-medical-services-for-house-committee/>.

1 I declare under penalty of perjury that the foregoing is true and correct. Executed this 31st
2 day of July, 2015 at San Francisco, California.
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5 */s/ Derek F. Foran*
6 DEREK F. FORAN
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